

Oglala Sioux Tribe

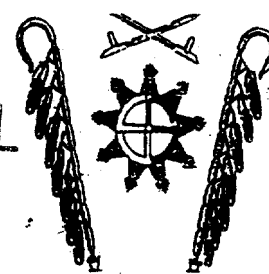
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Chairman Kennard
Commissioner Furchtgott-Roth
Commissioner Ness
Commissioner Powell
Commissioner Tristani
The Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

OFFICE OF THE VICE-PRESIDENT
WILBUR BETWEEN LODGES
"Wicakpi Wanbli"

SEP 5 2000

August 24, 2000

Dear Mr. Chairman, Ladies and Gentleman:

The Oglala Sioux Tribe finds the Common Carrier Bureau Order (CC Docket No. 96-45) contrary to our efforts to immediately, efficiently and economically improve telephone services on our reservation.

We hereby present you with a formal request for reconsideration of the Common Carrier Order explaining in greater detail why this order disregards our Tribal Sovereignty and violates the Trust responsibility.

Respectfully yours,

Wilbur Between Lodges
Wilbur Between Lodges, Vice Chairman
Oglala Sioux Tribe

cc: President Clinton
Chairman Bird-In-Ground
Senator Daschle
Senator Johnson
Senator Nighthorse Campbell
Senator McCain
Senator Burns
Senator Inouye
Cong. Hayworth
Cong. Kildee
Cong. Kennedy
Cong. Conyers
Cong. Waters
Cong. McDermott
Cong. Frost
Western Wireless Corp. chairman John Stanton
Common Carrier Bureau
Wireless Bureau

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Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED
SEP 5 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Federal-State Joint Board on Universal Service;)
Promoting Deployment and Subscribership in)
In Unserved and Underserved Areas, Including)
Tribal and Insular Areas)

Western Wireless Corporation, Crow Reservation)
In Montana)

Smith Bagley, Inc.)

Cheyenne River Sioux Tribe Telephone Authority)

Western Wireless Corporation, Wyoming)

Cellco Partnership d/b/a/ Bell Atlantic Mobile, Inc.)

Petitions for Designation as an Eligible)
Telecommunications Carrier and for Related)
Waivers to Provide Universal Service)

CC Docket No. 96-45

Petition for Reconsideration

By

The Oglala Sioux Tribe of South Dakota

The Oglala Sioux Tribe of South Dakota hereby submits this Petition for Reconsideration of the Commission's *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, FCC 00-208, released on June 30, 2000 ("*Twelfth Report and Order*"). In the *Twelfth Report and Order*, the Commission adopted rules and policies for, among other things, considering a request by a carrier to be designated as an Eligible Telecommunications Carrier ("ETC") on tribal lands. The Oglala Sioux Tribe respectfully requests that the Commission reconsider its decision not to assume jurisdiction outright over the designation of a carrier as an ETC on tribal lands. In concluding that "whether a carrier providing service on tribal lands is subject to

the jurisdiction of a state commission is a complicated and intensely fact-specific legal inquiry informed by principles of tribal sovereignty and requiring the interpretation of treaties, and Federal Indian law and State law," the Commission fails to recognize its Federal Trust responsibility to the tribes and that it is the Commission's responsibility to designate a carrier seeking to serve only areas within a established reservation as an ETC.

The Oglala Sioux Tribe has planned an agreement with Western Wireless Corporation establish a wireless local loop telephone system on our reservation as quickly as possible. Stimulated by your attention and at your urging we began, over a year ago, to address the low telephone penetration rate and the digital divide on our reservation. In preparation for this, we have just updated our earlier penetration statistics for our reservation. With study of five of the seven districts completed, the numbers are even more compelling than we previously reported. For the districts we've completed, less than 25% of our homes have telephones. It may be that we have the lowest penetration rate on any reservation in the United States. In great measure, we know this condition is responsible for our depressed tribal economy.

We understand that the South Dakota Public Utilities Commission has denied Western Wireless ETC status in South Dakota, notwithstanding the needs of rural consumers. As a sovereign nation, it is our responsibility to take care of our residents and it is the Commission's responsibility to work with our tribe on making telephone service universally available throughout the reservation.

The Oglala Sioux Tribe's planned agreement with Western Wireless for the provision of wireless local loop telephone service promises to bring affordable telephone service to all residents that want such service -- an option that is not available to our residents today. As we move ahead, we will request that you grant ETC status to Western Wireless for our reservation and we expect that you will take this action.

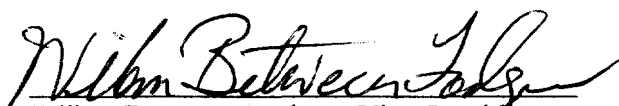
We know our needs and ourselves. We are determined, as a sovereign government and as a people, to be responsible for ourselves and our own welfare. We must have telephones in our homes to do this. An efficient, affordable wireless telephone system is an essential piece to our telecommunications infrastructure on the reservation. We are moving ourselves into a solid economic future and having this wireless telephone infrastructure immediately is important.

We also recommend you establish an Indian Liaison Office staffed by people who truly understand and appreciate tribal sovereignty. We are generally pleased with the American Indian Policy you adopted in June. Basic in that policy is your recognition of tribes as domestic sovereigns with an inherent sovereign right to self-government including the right to regulate activity on our own lands.

In summation, the Oglala Sioux Tribe respectfully requests that the Commission

reconsider its decision not to assume jurisdiction outright over the designation of a carrier that serves only a reservation as an ETC. Requiring a carrier to establish Commission jurisdiction through an exhaustive legal proceeding will have a chilling effect on any carrier seeking to provide service on reservations, ignores the Commission's Federal Trust responsibility, and takes away from the tribes their ability for self-determination.

Respectfully submitted,



Wilbur Between Lodges, Vice-President
Oglala Sioux Tribe

cc: President Clinton
Chairman Bird-In-Ground
Senator Nighthorse Campbell
Senator McCain
Senator Daschle
Senator Burns
Senator Bacchus
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Cong. Frost
Chairman William Kennard
Commissioner Gloria Tristani
Commissioner Michael Powell
Commissioner Harold Furchgott-Roth
Commissioner Susan Ness
Dorothy Atwood, Common Carrier Bureau
Western Wireless Corporation.